

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KILEY WOLFE,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	NO. 07-0348
	:	
MCNEIL-PPC INC.; MCNEIL	:	
CONSUMER & SPECIALTY	:	
PHARMACEUTICALS, a division of	:	
MCNEIL-PPC, INC.; MCNEIL	:	
CONSUMER HEALTHCARE, a division	:	
of MCNEIL-PPC, INC; JOHNSON &	:	
JOHNSON, INC., and JOHNSON &	:	
JOHNSON PHARMACEUTICAL	:	
RESEARCH AND DEVELOPMENT,	:	
LLC,	:	
	:	
Defendants.	:	

O R D E R

AND NOW, this 27th day of January, 2012, upon consideration of Defendants' Renewed Motion to Exclude Expert Testimony Related to Dr. Manuela Neuman's "Lymphocyte Toxicity Assay" (Document No. 228, filed September 29, 2011); Defendants' Renewed Motion to Exclude Expert Testimony of Robert C. Nelson, Ph.D. (Document No. 229, filed September 29, 2011); Defendants' Renewed Motion to Exclude Expert Testimony of Roger Salisbury, M.D. (Document No. 230, filed September 29, 2011); Defendants' Renewed Motion to Exclude Expert Testimony of Randall Tackett, Ph.D. (Document No. 231, filed September 29, 2011); Plaintiff's Answer in Opposition to Defendants' Renewed Motion to Exclude Expert Testimony of Roger Salisbury, M.D. (Document No. 234, filed October 13, 2011); Plaintiff's Answer in Opposition to Defendants'

Renewed Motion to Exclude Expert Testimony of Manuela G. Neuman, Ph.D. (Document No. 235, filed October 13, 2011); Plaintiff's Answer in Opposition to Defendants' Renewed Motion to Exclude Expert Testimony of Robert C. Nelson, Ph.D. (Document No. 236, filed October 13, 2011); and Plaintiff's Answer in Opposition to Defendants' Renewed Motion to Exclude Expert Testimony of Randall Tackett, Ph.D. (Document No. 237, filed October 13, 2011), for the reasons set forth in the Memorandum dated January 27, 2012, **IT IS ORDERED** as follows:

1. Defendants' Renewed Motion to Exclude Expert Testimony Related to Dr. Manuela Neuman's "Lymphocyte Toxicity Assay" is **DENIED**;
2. Defendants' Renewed Motion to Exclude Expert Testimony of Robert C. Nelson, Ph.D., is **GRANTED IN PART AND DENIED IN PART**, as follows:
 - a. That part of the motion that seeks to preclude Dr. Nelson from testifying regarding the state of mind of parties or the FDA and from presenting expert testimony that constitutes a legal opinion is **GRANTED**; and
 - b. The motion is **DENIED** in all other respects; and
3. Defendants' Renewed Motion to Exclude Expert Testimony of Roger Salisbury, M.D., is **GRANTED IN PART AND DENIED IN PART**, as follows:
 - a. That part of the motion that seeks to preclude Dr. Salisbury from testifying regarding the state of mind of parties or the FDA and from presenting expert testimony that constitutes a legal opinion is **GRANTED**; and
 - b. The motion is **DENIED** in all other respects; and
4. Defendants' Renewed Motion to Exclude Expert Testimony of Randall Tackett, Ph.D., is **GRANTED IN PART AND DENIED IN PART**, as follows:

- a. That part of the motion that seeks to preclude Dr. Tackett from testifying regarding the state of mind of parties or the FDA and from presenting expert testimony that constitutes a legal opinion is **GRANTED**; and
- b. The motion is **DENIED** in all other respects.

IT IS FURTHER ORDERED that, after review of all the motion papers, the Court concludes that no Daubert hearings are necessary.

IT IS FURTHER ORDERED that the issuance of this Order is without prejudice to the rights of the aggrieved party or parties to:

1. seek reconsideration at or before trial of any part of this Order, if warranted by the evidence; or
2. object at trial to improper questions of, and inadmissible evidence offered by or through, any testifying expert.

IT IS FURTHER ORDERED that a Final Pretrial Conference will be scheduled in due course.

BY THE COURT:

/s/ Hon. Jan E. DuBois
JAN E. DUBOIS, J.